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Human rights situations that require the Council's attention

Joint written statement* submitted by the Shimin Gaikou Centre (Citizens' Diplomatic Centre for the Rights of Indigenous Peoples), International Movement Against All Forms of Discrimination and Racism (IMADR), non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Human Rights Violations in Okinawa, Japan

In September 2015, Takeshi Onaga, the Governor of Okinawa Prefecture, made an oral statement at the 30th session of Human Rights Council, claiming its people's right to self-determination has been neglected by the Government of Japan in regard to the construction of a new U.S. military base in Oura bay, Henoko. He stepped forward to revoke the land reclamation approval for the construction of the new base granted under heavy pressure from the Government of Japan in 2013 by his predecessor, Nakaima Hirokazu.

However, the Government of Japan quickly filed complaints in an attempt to suspend and nullify Governor Onaga's revocation. It declared its intention to take the issue of Governor Onaga's revocation to court and to reinstate or "execute by proxy" the land reclamation approval. This act is clearly against the Human Rights Commitee stated in the concluding observations on the sixth periodic report of Japan in 2014. It stated "*the State party should take further steps to revise its legislation and fully guarantee the rights of Ainu, Ryukyu and Okinawa communities to their traditional land and natural resources, ensuring respect for their right to engage in free, prior and informed participation in policies that affect them*"[1].

The exisiting U.S. military bases have caused serious human rights violations in Okinawa, but the construction of the new U.S. bases is causing even more severe human rights violations, including the violation of environmental rights and freedom of expression and peaceful assembly, which are core rights to ensure the "*prior and informed participation in policies*". The Government of Japan should take measures to guarantee those rights of Ryukyuan/Okinawan people.

Environmental Rights

The rights of the Ryukyuan/Okinawan people to "a safe, clean, healthy and sustainable environment"[2] have been constantly compromised and violated as the presence of U.S. military bases in Okinawa, while affecting most aspect of the people's life, is given the highest priority of importance by the Japanese and U.S. governments for their bilateral relationship and national security.

Many national laws and measures, which address and redress environmental challenges, exist in Japan and are fairly effective in many other parts of Japan. However, in Okinawa, the implementation and enforcement of these laws and measures on U.S. military base related issues has been ad hoc at best and often impossible due to the U.S.-Japan Status of Forces Agreements (SOFA).[3] Lack of access to and transparency in environmental information is chronic. While a new accord was signed in September 2015 by both governments to supplement the SOFA in terms of environmental stewardship, its effectiveness remains to be seen.[4] In fact, these national laws and measures are occasionally manipulated to secure the continuing presence of U.S. military bases rather than a safe and healthy environment for the Ryukyuan/Okinawan people. Examples are abundant.

Noise from U.S. military aircrafts around the U.S. Futenma Air Station and Kadena Air Base constantly exceed the

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[1] International Convenant on Civil and Political Rights Human Rights Committee 'Concluding observations on the sixth periodic report of Japan' (August 20,2014) CCPR/C/JPN/CO/6 at:
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fJPN%2fCO%2f6&Lang=en

[2] Resolution Human Rights and the Environment (A/HRC/25/L.31) adopted at the 25th Session of the Human Rights Council in March 2014.
http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/25/L.31

[3] *Nichibei chiikyotei no kaitei o motomete nichibenren karano teigen* [Demanding changes to the U.S.-Japan Status of Forces Agreements: Suggestions from the Japan Federation of Bar Associations]. 2014.
The Japan Federation of Bar Associations.
http://www.nichibenren.or.jp/library/ja/publication/booklet/data/nichibeichiikyoutei_201410.pdf

[4] Agreement Between Japan and the United States of America on Cooperation in the Field of Environmental Stewardship Relating to the Unites States Armed Forces in Japan, Supplement to the SOFA.
http://www.mofa.go.jp/mofaj/files/000117340.pdf

environmental standards set forth by the Government of Japan based upon its Basic Environment Act.[5] In some cases, noise reaches 120 dB. The Okinawa prefectural government has identified U.S. military aircraft noise as contributing factors to health problems such as hearing impediments and low birth weight in infants among the residents of Futenma and Kadena.[6] The Japanese court has ruled that noise from U.S. military aircrafts has caused health effects on residents of Futenma and Kadena and ordered the U.S. and Japanese governments to pay financial compensation. The court rulings and residents' demand for a halt to early morning flights and evening flights at the bases have not brought about changes to the military's flights.

Toxic substances, discharged from the U.S. military bases and left underground in land which have been returned to Okinawa, have contaminated land and water. They pose health threats to residents living near the bases.[7] In 2013, drums belonging to the U.S. military were unearthed in a soccer filed, a formally part of the Kadena Air Base, in Okinawa City. They contain high levels of dioxins and other toxic substances, exceeding well over the environmental standards.[8] The Government of Japan has downplayed the health risks posed by the toxic substances while withholding some information obtained from its surveys. The Government of Japan has not conducted any survey on the health risks of residents near the soccer field.

The construction of a new U.S. military base in Henoko and Oura Bay in northern Okinawa Island is considered by many to cause environment destruction to the area, one of the most biodiversity rich areas in Japan. The Government of Japan is proceeding with construction works however, because its Environmental Impact Assessment (EIA) for the airbase had concluded that the construction and operation of the airbase will have no adverse impacts on the environment. Many experts, NGOs and the Okinawa prefectural government have questioned and criticized the EIA conclusions,[9] and NGOs have demanded release of the names of the government experts who made these EIA conclusions. At present, the construction of the airbase is disputed in court between the Okinawa Prefectural government and the Government of Japan.[10] The Government of Japan stands with its EIA conclusions and is proceeding with construction works while refusing to release the names of the experts. All the while, the U.S. Government has not made itself available to the Okinawan public for any inquiry about the airbase.

The environmental rights of the Ryukyuan/Okinawan people are not respected, and real harm and damages to the environment and our health continue. Lack of access to and transparency in environmental information on U.S. military bases related issues contributes to the violation of the environmental rights of the people.

Freedom of expression and peaceful assembly

Article 21 of the Japanese Constitution guarantees the freedom of expression and assembly. However, these rights are not equally respected in Okinawa, including the right to information on environmental issues in relation to the U.S.

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[5] *Heisei 26 nendo kokuki so-on sokutei kekka* [Results of noise surveys in Japanese fiscal year 26 (2014)]. 2016.
Military Bases Affairs Division, Executive Office of the Governor, Okinawa Prefectural Government.
http://www.pref.okinawa.jp/site/kankyo/hozen/taiki/base/documents/270908kadenafutenmasokuteikekkagaiyou.pdf

[6] *Okinawa no beigun kichi* [U.S. Military Bases in Okinawa]. 2013.
Military Bases Affairs Division, Executive Office of the Governor, Okinawa Prefectural Government.
http://www.pref.okinawa.jp/kititaisaku/DP-02.pdf

[7] Ibid.

[8] *Kyu kadena hikojo (26) doboku sonota koji houkokusho gaiyo ban* [Former Kadena Air Base 26 Civil Engineering and other works: Summary version]. 2015.
Okinawa Defense Bureau and others.
http://www.mod.go.jp/rdb/okinawa/07oshirase/kanri/houkokusyo8/2houkokusyogaiyouban.pdf

[9] See for example Sakurai Kunitoshi and Gavan McCormack, "To Whom Does the Sea Belong? Question Posted by the Henoko Assessment." 2015.
The Asia Pacific Journal: Japan Focus
http://apjjf.org/2015/13/29/Sakurai-Kunitoshi/4346.html

[10] Okinawa sues Tokyo over Futenma relocation dispute, taking legal battle to next level. JapanTimes. December 25, 2015, http://www.japantimes.co.jp/news/2015/12/26/national/politics-diplomacy/okinawa-sues-tokyo-over-futenma-relocation-dispute-taking-legal-battle-to-next-level/#.VsAInoXyelh

military bases, which is often restricted in order not to escalate the opposition to the foreign bases.[11]

Media outlets in Okinawa have been particularly targeted as "*biased*" media due to their critical coverage of the issues of the construction of a new U.S. military base in Henoko, which is highlighted by the "Hyakuta incident". On 25th June 2015, over thirty five junior lawmakers of the ruling Liberal Democratic Party (LDP) held a study session at its headquarters to promote the revision of the Constitution. Naoki Hyakuta, a best-selling writer and former member of the Board of Governors of NHK (Japan Broadcasting Cooperation), was invited as a lecturer. During the session, the participants discussed how media outlets critical of the government's policies should be "*punished*".[12] Hyakuta went on to say that "(the Okinawa Times and the Ryukyu Shimpo[13]) *must be closed down by any means*", in response to a question from one lawmaker on how to "reorient the public opinion in Okinawa".[14] The study session sparked a public rebuke. Yet, on 8th February 2016, Internal Affairs and Communications Minister Sanae Takaichi mentioned possible suspension measures against broadcasters which are deemed politically biased[15], which spread a chilling effect on media freedom.

The police, including the riot police, have used violence to oppress protesters in Okinawa, including environmental human rights defenders and peace activists. The police forcefully evacuate and detain them on the sidewalk of the U.S. military Camp Schwab gate in Henoko, where they are kept inside an enclosure of iron bars and police vehicles. At sea, in addition to detention and evacuation, protesters and journalists in kayaks and small boats have been subject to violent measures by the Japan Coast Guard (JCG) such as colliding with and damaging their boats and deliberately flipping smaller boats.[16] The JCG has used excessive force, including chokeholds and holding demonstrators underwater to threaten them with drowning. The police and JCG have taken video footage of protesters and journalists, identified and threatened them by name.[17] In 2015, at least 15 individuals were arrested for allegations of violating *the Act on Special Measures Concerning Criminal Cases*[18] or "*obstructing police officers from performing their duty*".[19] Many of them are believed to be arbitrary, because of the unclear circumstances of arrests. Even some arrests involved the provocation from police officers. Those measures are used as a means to oppress and discourage people from joining demonstrations.

Citizens' Network for Biodiversity in Okinawa, an NGO without consultative status, also shares the views expressed in this statement.

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[11] IMADR and others (December 2015),'*Violation of freedoms of expression and peaceful assembly in Okinawa, Japan*', p.5, last accessed on 8 February 2016 at: http://imadr.org/wordpress/wp-content/uploads/2016/02/Joint-submission-Violation-of-freedoms-of-expression-and-peaceful-assembly-in-Okinawa_11Dec2015.pdf

[12] The Asahi Shimbun (June 26, 2015), *'Pro-Abe lawmakers offer plan to 'punish' media; Hyakuta wants Okinawa papers closed'*, last accessed on 8 February 2016 at: http://ajw.asahi.com/article/behind_news/politics/AJ201506260087

[13] The Okinawan Times and the Ryukyu Shimpo are the two main local newspapers in Okinawa.

[14] The Asahi Shimbun (June 26, 2015), *'Pro-Abe lawmakers offer plan to 'punish' media; Hyakuta wants Okinawa papers closed'*

[15] The Japan Times (February 9, 2016), *'Sanae Takaichi warns that government can shut down broadcasters it feels are biased'*, last accessed on 10 February 2016 at: http://www.japantimes.co.jp/news/2016/02/09/national/politics-diplomacy/minister-warns-that-government-can-shut-down-broadcasters-it-feels-are-biased/#.VrtCvfnhCM9

[16] Under the warrant principle, a restriction of personal liberty has to be supported by a warrant from a court judge. This measure is restricted for an emergency situation.

[17] IMADR (17 September, 2015), *'Human Rights Violations in Okinawa, Japan (HRC30, 2015, Joint-WS)*, last accessed on 8 February 2016 at: http://imadr.org/humanrights-violations-okinawa-japan-hrc30-2015-joint-ws/

[18] This act is based on the "Agreement under Article 6 of The Treaty of Mutual Cooperation and Security between Japan and the United States of America, regarding Facilities and Areas and the Status of United States Armed Forces in Japan"

[19] IMADR and others (December 2015), *'Violation of freedoms of expression and peaceful assembly in Okinawa, Japan'*, p.5